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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/854,256

05/11/2001

Anthony Robert Buckley

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10/10/2006

AGERE SYSTEMS INC.

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BERKELEY HEIGHTS, NJ 07922-2747

EXAMINER

TRAN, TUAN A

ART UNIT

PAPER NUMBER

2618

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/854,256

**Applicant(s)**

BUCKLEY ET AL.

**Examiner**

Tuan A. Tran

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5,6 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6 and 15-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Gong (6,301,491).

Regarding claim 1, Gong discloses a mobile station for a mobile communications system (See fig. 1A) comprising: a handset; a headset 190 for connection to the handset; the handset including a transceiver 120 for transmitting an outgoing call and receiving an incoming call, a processor 100 coupled to the transceiver 120 for providing audio signals on a first audio path to a first audio transducer in the handset and on a second audio path to a second audio transducer in the headset 190; and a single first user operable switch (a **TALK** key on a keypad 170) disposed in the handset, the single switch configured such that the operation thereof has effect both of initiating and/or accepting a call (the **TALK** key of a mobile communication device such as mobile phone is widely known to use for initiating and/or accepting a call), and of routing audio signals to the audio path corresponding to the handset regardless of whether the

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headset 190 is connected to the handset (audio signal is routed to the second audio path **only if** a hand-free key is selected regardless of whether the headset 190 is connected to the handset) (See figs. 1A, 1B, 2 and col. 2 line 36 to col. 3 line 24, col. 3 lines 25-44, col. 4 lines 44-46).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gong (6,301,491) in view of Kim et al. (6,397,087).

Regarding claims 1, 3 and 5-6, Gong discloses a mobile station for a mobile telecommunications system (See fig. 1A) comprising: a handset; a headset terminal for connection of the headset to the handset; the handset including a transceiver 120 for transmitting an outgoing call and receiving an incoming call, a processor 100 coupled to the transceiver 120 for providing audio signals on a first audio path to a first audio transducer in the handset and on a second audio path to a second audio transducer in the headset; a single first user operable switch (a **TALK** key on a keypad 170) disposed in the handset configured such that the operation thereof has the effect both of

initiating, accepting and terminating a call (the **TALK** key of a mobile communication device such as mobile phone is widely known to use for initiating and/or accepting a call), and of routing audio signals to the audio path corresponding to one of the handset and the headset on which the switch is disposed regardless of whether the headset is connected to the handset (audio signal is routed to the second audio path **only if** a hand-free key is selected regardless of whether the headset 190 is connected to the handset) (See figs. 1A, 1B, 2 and col. 2 line 36 to col. 3 line 24, col. 3 lines 25-44, col. 4 lines 44-46). However, Gong does not mention the headset with a second switch, wherein the second switch is configured to initiate and/or accept, terminate a call, and rout it on the second audio path and wherein the operation of the second switch following the operation of the first switch is effective to select the other of the selected one of the first and second audio paths, when the headset is connected to the handset. Kim teaches a headset with a second switch (On/Off switch), wherein the second switch is configured to initiate and/or accept, terminate a call, and rout it on the second audio path and wherein the operation of the second switch following the operation of the first switch is effective to select the other of the selected one of the first and second audio paths, when the headset is connected to the handset (See figs. 7-8 and col. 5 lines 33-49, col. 7 lines 2-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the headset as disclosed by Kim for the advantage of allowing the user to conduct a call in private-mode.

Claims 15-19 are rejected for the same reasons as set forth in claims 1, 3 and 5-6, as method.

Regarding claim 2, Gong & Kim disclose as cited in claim 1. Gong and Kim further disclose the transducer means in the handset and the headset each comprises a microphone and a speaker respectively (See Gong fig. 1 and Kim fig. 7). However, they not mention that the handset comprises a loudspeaker. Official Notice has been taken that the handset comprising the loudspeaker is very common in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use handset having a loudspeaker for the advantage of allowing the user to operate the handset in hands-free mode.

3. Claims 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gong (6,301,491) in view of Kim et al. (6,397,087) as applied to claim 15 above, and further in view of Bowen et al. (5,224,151).

Regarding claims 20-24, Gong & Kim disclose as cited in claim 15. However, they do not mention that the first switch is operated automatically via detection of use of the handset wherein the step of automatically detecting comprises detecting proximity of the handset to a user's head via capacitance change or infrared sensing or acoustic impedance sensing or tension in a headband. Bowen teaches a handset comprises sensor for detecting proximity of the handset to a user's head via capacitance change or infrared sensing or acoustic impedance sensing to switch the handset between a loudspeaker mode (hand-free mode) and a handset mode (See figs. 1-4 and col. 2 line 10 to col. 3 line 7). Since tension sensor, Official Notice has been taken, is well known in the art as well as the headband of the handset; therefore it would have been obvious

to one of ordinary skill in the art at the time the invention was made to apply the teachings of Bowen in modifying the handset as disclosed by Gong & Kim or the headband by adding to it infrared proximity sensor or capacitance proximity sensor or acoustic impedance proximity sensor or tension sensor for the advantage of automatically switching the handset between the hand-free mode (with the headset) and handset mode depending on the location of the handset relative to the user's ear.

### ***Response to Arguments***

Applicant's arguments filed 09/15/2006 have been fully considered but they are not persuasive.

The Applicant argued that Gong does not teach "a single first user operable switch disposed in the handset configured such that the operation thereof has the effect both of initiating and/or accepting a call, and of routing audio signals to the audio path corresponding to the handset regardless of whether the headset is connected to the handset" (See Remark, page 7). The Examiner respectfully disagrees with the Applicant argument because the mobile phone as disclosed by Gong is widely known to comprise a **TALK** key, wherein the TALK key is the **TALK** key of a mobile communication device such as mobile phone is widely known to use for initiating and/or accepting a call, and of routing audio signals to the audio path corresponding to one of the handset and the headset on which the switch is disposed regardless of whether the headset is connected to the handset (audio signal is routed to the second audio path **only if** a hand-free key is selected regardless of whether the headset 190 is connected

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to the handset) (See figs. 1A, 1B, 2 and col. 2 line 36 to col. 3 line 24, col. 3 lines 25-44, col. 4 lines 44-46). For that reasons, the rejections are proper and stand for all the pending claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571) 272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tuan Tran



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